I urge the FCC to consider the following information and answer for itself the scenarios below -- answers to the questions below are provided in case you can't reach the answer on your own. AT&T T Mobil should be denied and all the mergers in recent years involving telecommunications companies be overturned. AT&T defrauded the government and the public with its re-mergers with SBC Communications and Bell South making promises they never kept. Don't fall for their empty promises on the T Mobil merger either. Teletruth and NewNetworks.com have filed that wireless divestures of AT&T and Verizon's businesses should occur instead of more mergers and I agree. Separate their wire-line and wireless businesses.

Q. In the 22 years since AT&T was broken up by the federal government, what has happened to the seven ?Baby Bells?? How did many of the Baby Bells get approval to re-merge and expand their services? Were these mergers in the public?s best interest?

Q. How did deregulation, which was supposed to benefit consumers by increasing competition, actually end up killing off most competition? What is the state of competition today in most major cities?

Q. How did the phone companies take advantage of the Internet explosion, both in expanding their market share and in rolling out new equipment and services? And who ?owns? the new equipment, especially the lines into people?s homes?

Ma Bell, also known as AT&T, once was the largest company in the world, employing over 1,000,000 people. It controlled almost all U.S. local and long distance service, as well as the equipment in most homes and networks, and it also had the premier research group in America: Bellcore.

Because of its market power and its monopoly on local phone service, long distance and even phone equipment, AT&T was ?broken up? in 1984. And yet, a little more than two decades later, Humpty Dumpty is getting put back together again. AT&T (acquired last year by SBC, which then took on the AT&T name) recently made a bid to purchase one of the original ?Baby Bells,? BellSouth. Verizon consolidated other Bells and devoured MCI. And none of the Bells compete seriously with each other for local residential service or DSL.

Meanwhile, the public-switched telephone networks (PSTNs) which were officially opened by the Telecom Act of 1996, have been shut down again. Competitors, including Internet Service Providers (ISPs) and competitive local exchange companies (CLECs) have been thrown off the networks, and the promised era of competition to lower prices and bring fiber optic?based broadband to America

never materialized.

To understand the consequences of all this, we need to take a look at the history of America's public-switched network infrastructure (although we first need to remove the word ?public??the public has been shut out of the equation on so many levels that we might as well reside in sub-basement number 3 of a large high-rise). This country?s essential networks are controlled by corporations with only nominal government oversight.

1984-1991: Breaking up is hard to do

Even before 1984, upstarts like MCI wanted to offer long distance services, at competitive prices, to compete with AT&T. In a deal known as "divestiture", AT&T got to keep long distance services, while the local phone monopolies would be mapped into seven different ?Baby Bells,? which retained control of the phone lines themselves: Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Telesis, Southwestern Bell, and US West.

(Note: GTE, Cincinnati Bell, SNET and a host of other small, rural local phone companies existed at the time, but they collectively represented only about 20% of the total U.S. local phone market. SNET and GTE were subsequently purchased by SBC and Verizon, respectively.)

Remember: the Bell companies were then and are still utilities. They control essential local phone networks and infrastructure, and they control the primary telecommunications wire into the home and office. Being utilities, they had, and continue to have, the ability to make guaranteed profits from local service -- and when they need more, they plead poverty. Indeed, from the time of the 1984 break-up, these seven Bell companies made themselves out to be ?poor babies? in order to secure a number of rate increases. For example, even before the ink was dry on the 1984 Divestiture Consent Decree, Southwestern Bell applied to regulators for a $1.2 billion, 26% rate increase to make up for revenues lost because of the impending break-up. By 1986, this had earned the Baby Bells over $10 billion.

Meanwhile, each Bell started to have delusions of grandeur, wanting to be just like AT&T, and each started buying everything from real estate and computer leasing stores to overseas investments. Much of this would end up losing billions ? and almost all of these ventures were funded through local service, which remained a cash cow.

The fiber go-go years, 1992-1996

But it was not until the 1990's?after the phone companies promised to rewire states to take advantage of emerging broadband Internet technologies?that the real cash started to come in. The Bells convinced regulators, in a systematic, state-by-state approach, to "deregulate" aspects of local

phone services. In short, ?rate-of-return? (a regulation which kept profits in check), switched to ?price caps? (in which most services were no longer examined for profits.) For example, Call Waiting and Call Forwarding cost about one cent a month to offer, yet companies found they could charge $4 to $5 a month for the service. These now-deregulated services are virtually all profit, and no one examines the profit margins. (A later piece in this series will examine phone bills in detail, including taxes and surcharges, and I?ll discuss how deregulation impacted rates. Common wisdom on ?lower rates? over the last five years does not stand up when examining actual phone bills and customer phone usage patterns.)

The new Telecom Act

Starting in the early 1990?s, it was clear that the Bells still controlled almost all local phone service, which proved a bottleneck to competition because they could block anyone else from selling service on the same wires. Congress tried to resolve this situation and eventually passed the Telecommunications Act of 1996, which amended the Telecom statutes set in 1934. In the act, the Bells made a trade-off: They were allowed to enter the long-distance market as long as they opened their networks to Internet Service Providers (ISPs) and Competitive Local Exchange Companies (CLECs), companies that could offer DSL and local-and/or long-distance phone services. Similarly, the act allowed the Bells to offer cable services based on fiber optics and coax over their phone networks as long as they allowed competitors with different products, or new products such as video-gaming services, to use these networks. These networks would slowly replace the original, decades-old copper wire-to-the-home.

Circa 1996: The Internet explosion

At the same time, another interesting phenomenon hit: Various online services, such AOL or Prodigy started to be joined by bulletin board services, and they would all end up on the Internet and World Wide Web. By 1995, there were almost 15 million people using some form of online service, so there was a stable base of users with a modem and a computer. With the invention of the Web browser and the graphic interface, (and other technological moves such as the Internet protocol TCP/IP, and government-funded networks), the country went into techno-hypergrowth.

And it was not the phone companies who created this growth. It was the 7500 new ISPs, small entrepreneurial companies like Bwaynet, Panix or BrandX, and competitive local phone companies, like Covad and Rhythms, which started to offer Internet services and DSL over the old copper wiring, that allowed America to make this next technological leap.

Nevertheless, the Bell companies prospered by sitting back and collecting the money. The ISPs helped sell lots of second lines for Internet service, which the Bells of course had to wire. And

remember that limits on the Bell?s profits had been deregulated away.

The entrance of the Bells into the Internet market is related to the story of the lack of high-speed fiber-optic lines in the United States (see my previous piece in NiemanWatchdog.org). Because of deregulation, customers essentially paid for fiber-optic deployment -- but they were so enamored at being able to ?get online? for the first time, that they entered a state of collective amnesia. The Bells had little incentive to roll out fiber optics. DSL over copper wire was an afterthought.

In fact, by 2000, according to ISP Planet, the Bell companies were not even in the Top 10 of Internet Service Providers.

1996 -1999: Then they merged.

The Bells that had been created in 1984 began to re-merge in the late 1990s. Consider:

SBC bought Pacific Telesis (California), 1997
SBC then bought SNET (Connecticut), 1998
SBC bought Ameritech, (5 states: Ohio, Michigan, Illinois, Indiana, Ohio) 1999
Bell Atlantic bought NYNEX (renamed Bell Atlantic, totaling 13 states), 1997
Bell Atlantic merged with GTE (renamed Verizon), 2000
In the years before the mergers, each Bell had stated that it would engage in competition with other Bells, presumably to benefit consumers. Instead, the Bells decided it was easier to marry their siblings, claiming they needed to get bigger in order to compete.

For instance, according to SBC?s 1999 merger plans with Ameritech, it should have entered 30 markets outside of its own region to compete with Verizon, BellSouth, and Qwest. But as of 2004, we could not find any city that had residential local phone service competition from SBC outside of its territories, even though it was slated to enter markets everywhere from New York and Philadelphia to Tampa, Florida, and Birmingham, Alabama.

Verizon made almost identical claims after its birth from a merger. Verizon stated to Congress that the merger would help create a ?broad-scale attack on the local markets of the other [Bells] across the country?. Verizon promised to be in 21 cities 18 months after the closing of the merger, and spend half a billion dollars to do it. Today, there is little if any evidence that Verizon ever competed with any other Bell company for local residential service with any vigor.

On the fiber deployment side, the mergers were the death of the state fiber plans. By 2000, SBC was to spend $33.6 billion on wiring12.5 million households while Verizon was supposed to spend $15.6 billion on 17.7 million households. Combined, Verizon and SBC were to spend $48.9 billion and have

36.5 million households by 2000. The mergers ended deployments in 26 states.

Ironically, the FCC approved these mergers on the grounds that the public interest was served by increased competition, and that to compete effectively, the companies needed to get larger. Yet, as was the case with fiber optic commitments, the promises to compete were nothing more than a way to game the regulatory system. The mergers continued, with each merging company claiming that the newer, fatter Bell could now compete more effectively. And as soon as the ink was dry on each merger, money for competition was simply diverted to entering the long distance market. Companies, not the public, benefited.

2000-2005: Bells enter long distance

Starting in 1984, the Bell companies petitioned the FCC to allow them to enter the long distance markets in their own territories. The reason they were restricted was because they could use their market power to control the market and harm competition, i.e., they could sell both local and long distance as a package.

The Telecom Act of 1996 set out a roadmap: If the Bells opened their networks to competitors, they would be granted entry into long distance. So, at the same time that the companies were supposed to be competing with each other, the companies applied for and received entry into long distance in their own regions.

2000-2005: Kill competition.

Then came the FCC hatchet. The FCC under former chairman Michael Powell (2001-2005) essentially rewrote the 1996 Telecom Act, eliminating the conditions that allowed competition, and it also failed to enforce pro-competition laws on the books. By 2004, over 6000 ISPs and most CLECs had gone out of business, and not all because of bad business acumen. Predatory wholesale pricing practices and anti-competitive behavior by the Bells helped to put them out of business.

The Bells? harsh behavior toward competitors is legendary and on the record. For example, in 2001, Royce Holland, then CEO of a CLEC, Allegiance Telecom (which went bankrupt and was sold to XO communications), testified that there had been a ?systematic attempt to thwart sales efforts? with a customer-by-customer attack:

"We have had additional experiences that we believe warrant Cease and Desist action as well. [. . .] Verizon appears to be engaged in a systematic attempt to thwart Allegiance's sales efforts by, among other things, calling our prospective customers after we submit orders to Verizon to switch the customer's service to Allegiance and offering the customers a better deal if they cancel their orders

with Allegiance."

Meanwhile, the attack on competitors was also being pursued in Congress. For example, Congressmen Billy Tauzin, who had been well connected with the Bell companies in multiple ways, was the head of the House Commerce Committee. Under his guidance, starting in 2000 laws were passed to essentially eliminate all competition from the phone wires. This further lowered the confidence in the capital markets to keep investing in companies whose future was doomed.

Even more important in driving small companies out of business was a lack of enforcement in the entire ordering and installing process. The Bell companies in the 1990s started to neglect their 100-year-old copper wire lines, and they did not upgrade or "condition" them to handle DSL (which only travels over copper). By 2000, up to 40% of all orders placed by the Internet providers were not going through, as documented through interviews with ISPs and their ordering/installation data. This failure to provide conditioned copper wiring was one of the primary reasons the Bell companies (and the ISPs that depended on them) lost market share compared to the cable companies, whose networks were not as old or as sparse.

Furthermore, starting in 2001, the FCC announced intentions for a series of questionable rulings that would close down competition. By 2004, they instituted new regulations that

Blocked Internet service providers from using ?line-sharing?, which would allow an ISP to use customers? regular phone line for DSL as well.
Blocked the ISPs from reselling the Bells? DSL services?i.e., customers could not select an ISP for themselves while using the Bells? DSL, but would have to switch ISPs and use only the Bells? ISP.
Blocked competitors from receiving wholesale rates, known as UNE-p, that gave competitors access to use the local phone networks at a discount from retail pricing.
Gave the phone companies exclusive use of any new fiber upgrades (such as FIOS), without having obligations to keep these networks "open" to other ISPs.
Here, I need to make a serious technical digression: An ISP offers connections to separate networks, like the Internet and World Wide Web. This is known as an "Information Service." The copper phone line (or DSL connection) itself is a "Telecommunications Service", which the ISPs must rent from the Bells. Information services are applications run over the telecommunications services.

Today, this distinction has been erroneously erased. DSL and broadband connections were reclassified by the Federal Communications Commission in these new regulations as an "interstate information services", even though broadband and DSL are, at their bases, telecommunications services. As result of this technical point, phone companies no longer had to sell DSL services to competitors.

The outcome is now clear: Regulations destroyed competition for DSL, long distance service and local phone service. To be fair, some commissioners, like Commissioner Michael Copps, vehemently opposed this competition slaughter, but was out-voted.

As a result, the phone networks?which customers funded and which were all supposed to be "open" through deregulation?were "de-de-regulated"?that is, closed, shuttered. This is the reason AT&T and MCI were put up for sale. When the Bells would not provide a reasonable wholesale price to lease time on their phone lines, MCI and AT&T -- with about 9 million customers between them -- got ?de-deregulated? out of business.

The real irony is that the merger plans of the 1990s were based on the premise that the Bell companies would compete in each other?s territories. It?s now clear the Bells, after the mergers, didn?t need to compete, and so they cleared the decks of all the ?parasites? using ?their? networks.

Of course, there is another opinion?that of the Bell companies. They took the position that they owned the copper lines and that the Telecommunication Act of 1996, by allowing ISPs to use these networks, had ?expropriated? company properties. This is one reason the Bells give for not completing their fiber optic plans: allowing others to use these networks reduced the value and profits.

2005: To complete the history

SBC and Verizon finalized their entry into long distance markets by buying a long distance company: SBC bought up and renamed themselves after AT&T, and Verizon bought MCI. The children ate the parents. And because no Bell company competes in another other company's market for residential local service, the Bells essentially own the local, long distance, and DSL markets in every territory. They have rebuilt the original monopoly that AT&T was broken up for.